



## SCDHEC Internal Guidance for Consistency Determinations

### DEPARTMENT PROCEDURE FOR DETERMINING CONSISTENCY WITH COUNTY/REGIONAL SOLID WASTE MANAGEMENT PLANS

- I. Potential permittees of new, replacement or expanded SW Mgmt facilities should submit a consistency determination request to the Department prior to submitting a permit application.
- II. A preliminary determination will be made by the Department followed by a written communication to the designated county/region official copying the applicant. The county/region will be asked to submit relevant written comments back to the Department regarding the county/region interpretation of their plan within fifteen (15) days of receipt of the Department's notice of a preliminary decision.
- III. If the county/region fails to submit written comments within fifteen (15) days of receipt of the Department's preliminary decision or when the county/region is in agreement with the preliminary decision, the Department will proceed based on that preliminary decision notifying the applicant in writing. For "not consistent" determinations this notice will constitute a final decision that may be appealed to the Administrative Law Court.
- IV. If the county/region written response conflicts with the Department's preliminary determination, an attempt will be made to resolve the differences. When agreement cannot be reached within thirty (30) days of receipt of the written notice referenced in Step II, proceed based on the Department's preliminary determination notifying the applicant and county/region of such in writing. If agreement is reached that is different from the initial preliminary determination, notify the applicant in writing. For "consistent" determinations the Department will issue a "Notice to Proceed." For "not consistent" determinations the notice will constitute a final determination that may be appealed to the Administrative Law Court. (Only after receiving a "Notice to Proceed" from the Department should the permit application be submitted.)
- V. For facilities deemed by the Department to be "consistent" during the preliminary determination, the final consistency determination shall be made by the Department on the day the final permit is to be issued. That final determination shall be based on the county/regional plan of record on that date. If the final determination is "consistent" and all technical concerns have been resolved, the permit will be issued. If deemed "not consistent," the permit will be denied on such basis. The permitting decision may be appealed to the Administrative Law Court.

Note: Local governments may submit their comments (Step II) with their request for a determination (Step I).

#### Definitions/Explanations:

- I. **PRELIMINARY DETERMINATION OF CONSISTENCY**  
Pursuant to a request, the Department will make a "preliminary" consistency determination based on the most recent county/regional plan, as may be amended, on file with the Department.
- II. **FINAL DETERMINATION OF CONSISTENCY**
  - A. **"NOT CONSISTENT" DETERMINATIONS**  
Report the consistency decision without reviewing the permit. If the permit application review has already begun, terminate the review and deny the permit on such grounds.
  - B. **"CONSISTENT" DETERMINATIONS**  
A final determination will be made on the date of the issuance of the final permit based on the most recent county/regional plan, as may be amended, on file with the Department. (Note: "Not Inconsistent" is "Consistent.")
  - C. **ANNUAL TONNAGE LIMITS**, where applicable, shall be established or capped by:
    1. Specific limitations described in the county/regional plan; and/or,
    2. Equipment/other limitations at the facility; and/or,
    3. The provisions of the Demonstration of Need Regulation, R.61-107.17.